

Panaji, 16th August, 1984 (Sravana 25, 1906)

SERIES II No. 20

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms
Secretariat Administration and Coordination Division

Order

No. 1/2/83-SA & C

The Administrator of Goa, Daman and Diu is pleased to promote on ad-hoc basis Shri Nicolau S. Alvares, Head Clerk in the Directorate of Education, Panaji to the cadre of Mamlatdar/B.D.O. and order to issue the following transfers of the Officers borne on the cadre of Mamlatdar/B.D.O. with immediate effect and until further orders:

1. Shri G. M. Rathod, Enquiry Officer, City Survey, Daman who is at present holding the post of Mamlatdar, Daman in addition to his own duties is transferred and posted as Mamlatdar, Daman vice Shri Surjuse promoted. He shall hold the additional charge of the post of Enquiry Officer, City Survey, Daman till the new incumbent joins his duties.
2. Shri Nicolau S. Alvares promoted and posted as Enquiry Officer, City Survey, Daman vice Shri G. M. Rathod transferred.

By order and in the name of the Administrator of Goa, Daman and Diu.

G. H. Mascarenhas, Under Secretary (S. A. & C).

Panaji, 6th August, 1984.

Planning Department

Order

No. 4-25-78-PLG

The services of Shri Faquir Chand, a Group B Gazetted Officer of the Common Statistical Cadre of Goa, Daman and Diu at present working as Research Assistant in the Directorate of Industries & Mines, Panaji, are placed at the disposal of the Administration of Dadra and Nagar Haveli, Silvassa, with immediate effect for appointment by

Revenue Department

Notification

No. 22/122/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for the construction of road from Assolda

transfer on deputation to the post of Statistical Officer in that Administration.

2. The above appointment will be governed by the standard terms of deputation as laid down in the Government of India, Ministry of Finance, O.M. No. F.1 (11)-E-III (B) dated 7-11-1975 as amended from time to time.

3. The period of deputation of Shri Faquir Chand, shall be initially for a period of one year from the date of his joining the post.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. W. Rane Sardessai, Under Secretary (Planning).

Panaji, 7th August, 1984.

Works, Education and Tourism Department

Order

No. 13/4/83/WET/Part II/V

Read: — Government Order No. 13/7/78-WET-(Edn)-Vol. II dated 20-11-1978.

Shri Dileep P. Thally is hereby appointed on adhoc basis as Lecturer in Electrical Engineer in the Government Polytechnic with effect from the date of his joining, in the scale of pay of Rs. 700-1300 plus the usual allowances admissible from time to time.

The appointment is subject to the conditions specified in the Office Memorandum of even number dated 25-7-83 and the rules and regulations laid down by the Government from time to time.

The appointment is purely on adhoc basis and it will not bestow on the appointee any claim for regular appointment, promotion to higher post or seniority. Shri D. Thally has been medically examined and found fit.

The appointment is liable for termination in case the character and antecedents of the appointee are adverse so as to disqualify him from holding a post under Government.

By order and in the name of the Administrator of Goa, Daman and Diu.

V. S. Sawant, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 6th August, 1984.

to Xelvona via Compromodi (second Section) in V. P. Assolda, Quepem Taluka.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or other-

wise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Addl. Deputy Collector, South II to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector, South II.
3. The Executive Engineer, Works Division XVIII P.W.D. Ponda, Goa.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector, South II for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub-Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Quepem	Assolda	21	1 part	1. Shiva Rama Raut Dessai.	2400.00
			22	1 part	1. Laximan Yeshwant Sinai Assoldkar. 2. Shankar Yeshwant Sinai Assoldkar. 3. Jaiwant Yeshwant Sinai Assoldkar. 4. Anant Subrahan Assoldkar. 5. Devidas Y. S. Assoldkar. 6. Vasudev Hari S. Assoldkar.	125.00
			22	15 part	1. Balkrishna Govind Raut Dessai. 2. Ramnath Kashinath Raut Dessai. 3. Pandurang Puto Raut Dessai. 4. Babu Pundalik Raut Dessai. 5. Hari Shambu Raut Dessai. 6. Narayan Bombi Raut Dessai. 7. Ramchandra Bombi Raut Dessai. 8. Krishna Chandra Raut Dessai. 9. Purshottam Nageoji Raut Dessai. 10. Madhukar Purshottam Raut Dessai. 11. Krishna Shiva Raut Dessai. 12. Govind Mallafa Raut Dessai. 13. Shankar Shanu Raut Dessai. 14. Dhamu Hari Raut Dessai. 15. Mahendra Shambu Raut Dessai. 16. Kashinath Bhimaro Raut Dessai. 17. Pandu Vassu Raut Dessai. 18. Vithoba Bavali Prabhu Dessai. 19. Nanu Shanu Raut Dessai. 20. Nagu Venkatesh Raut Dessai. 21. Bhiean Yesso Raut Dessai.	725.00
			22	14 part	1. Laximan Yeshwant Sinai Assoldkar. T: Shitaram Nagu Naik.	140.00
			22	32 part	1. Yeshwant Uttam Raut Dessai.	60.00
			22	31 part	1. Balkrishna Govind Raut Dessai.	60.00
			22	30 part	1. Ram Zingu Raut Dessai.	60.00
			22	29 part	1. Ram Chandra Bombi Raut Dessai.	275.00
			22	23 part	1. Pandu Vassu Raut Dessai.	125.00
			22	27 part	1. Govind Shanu R. Dessai.	125.00
			22	26 part	1. Indira Kashinath Raut Dessai.	125.00
			22	25 part	1. Madhukar Purshottam Raut Dessai. 2. Babu Pundalik Raut Dessai. 3. Venu Sadashiv Raut Dessai. 4. Kashinath Bhieano Raut Dessai. 5. Dharmu Hari Raut Dessai. 6. Anant Sairu Raut Dessai. 7. Shambu Devu Raut Dessai.	260.00
			31	28 part	1. Biku Sairu Raut Dessai.	135.00
			31	7 part	1. Shiva Rama Raut Dessai. 2. Balkustha Raut Dessai. 3. Vithoba Bably Raut Dessai. 4. Govind Raut Dessai. 5. Babu Pundalik Raut Dessai. 6. Venu Sadashiv Raut Dessai. 7. Madhukar Purshottam Raut Dessai. 8. Dharmu Hari Raut Dessai. 9. Sambu Devu Raut Dessai. 10. Kashinath Bhicaro Raut Dessai. 11. Anant Sairu Raut Dessai. 12. Indira Kashinath Raut Dessai. 13. Govind Mallapa Raut Dessai. 14. Bhien Yesso Raut Dessai. 15. Pandu Vassu Raut Dessai. 16. Narayan Bombi Raut Dessai. 17. Vithoba Bombi Raut Dessai.	180.00

1	2	3	4	5	6	7
Quepem	Assolda	31	9 part	1. Prabhakar Shiva Raut Dessai. 2. Kustha Narayan Raut Dessai.		10.00
		31	8 part	1. Ziu Balso Raut Dessai.		80.00
		31	6 part	1. Datta Krishna Raut Dessai. 2. Ziu Balso Raut Dessai. 3. Prabhkar Kashinath Raut Dessai.		125.00
		31	5 part	1. Nanu Shanu Raut Dessai. 2. Pandu Vassu Raut Dessai. 3. Shankar Rama Raut Dessai.		125.00
		31	1 part	1. Shiva Rama Raut Dessai.		260.00
		27	5 part	1. Assoldkar.		180.00
		27	4 part	1. Krishna Raut Dessai. T: Monu Mapari Naik.		250.00
		27	2 part	1. Shankar Babuso Naik. 2. Ganpat Anand Naik. 3. Bhiean Govind Naik.		1500.00
		27	1 part	1. Comunidade of Assolda. T: Madhukar Raut Dessai.		500.00
		25	58 part	1. Comunidade of Assolda. T: 1. Madhukar Raut Dessai. 2. Shivram Bicu Naik. 3. Bhicu Govind Naik. 4. Pandu Vassu Raut Dessai.		350.00
		25	57 part	1. Shri Gram Devi Sateri Assolda. 2. Comunidade of Assolda.		325.00
		25	56 part	1. Comunidade of Assolda. T: 1. Jose Paulo Fernandes. 2. Pandu Vassu Dessai.		315.00
		25	55 part	1. Comunidade of Assolda. T: 1. Gangabi Anand Naik. 2. Pandu Vassu Raut Dessai.		360.00
		25	41 part	1. Comunidade of Assolda. T: Surya Shankar Dessai.		35.00
		25	50 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Baban Shankar Dessai.		125.00
		25	49 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Rajveer Shankar Dessai.		140.00
		25	48 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Rajveer Shankar Dessai.		80.00
		25	40 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Rajveer Shankar Dessai.		50.00
		25	39 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Rajveer Shankar Dessai.		60.00
		25	38 part	1. Vicente Joao. T: Surya Shankar Dessai.		38.00
		25	36 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Baban Shankar Dessai.		36.00
		25	34 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Keer Govind Dessai.		60.00
		25	32 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Bachu Vithoba Fotto Dessai.		65.00
		25	30 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Jose Paulo Santana.		50.00
		25	29 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Atmaram Shankar Dessai.		75.00
		25	26 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Sitaram Govind Dessai.		65.00
		25	27 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Matues Marcarenhas.		100.00
		25	17 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Jose Paulo Santana.		50.00

1	2	3	4	5	6	7
Quepem	Assolda	25	18 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Keer Govind Dessai.		90.00
		25	19 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Rajveer Shankar Dessai.		75.00
		25	20 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Baban Shankar Dessai.		85.00
		25	21 part	1. Vicente Joao. T: Surya Shankar Dessai. Atma Shankar Dessai.		80.00
		25	22 part	1. Vicente Joao. T: Surya Shankar Dessai. Sitaram Govind Dessai.		65.00
		25	23 part	1. Vicente Joao. T: 1. Surya Shankar Dessai. 2. Bachu Vithoba Fotto Dessai.		90.00
		25	24 part	1. Vicente Joao. T: Surya Shankar Dessai. North: S. No. 21/1, 22/1, 15, 22/30, 29, 23, 27, 26, 25, Nala, 31/7, 5, 1, 27/5, 4, 2, 25/17, 18, 19, 20, 21, 22, 23, 24. South: Railway line, S. No. 21/1, 22/15, 24, 32, 31, S. No. 22/30, 29, 28, 27, 26, 25, Nala S. No. 31/28, 7, 9, 8, 6, 5, 1, S. No. 27/5, 4, 2, S. No. 25/19, 20, 21, 22, 23, 24. East: S. No. 21/1, 27/2, 1, S. No. 25/58, 57, 56, 55, 41, 50, 40, 27, 29, 26, 18, village boundary of Kelvona. West: S. No. 21/1, 27/2, 1, S. No. 25/58, 57, 56, 55, 49, 48, 39, 38, 36, 34, 32, 30, 29, 26, 17.		80.00
Quepem	Kelvona	26	1 part	1. Krishna Babani Dessai. 2. Pravati Surya Dessai. 3. Gangaram Raghu Dessai. 4. Sadanand Ragu Dessai. 5. Prabhkar Ragu Dessai. 6. Vassu Baban Mapari. 7. Bhagarati Omu Dessai. 8. Nagu Pangu Dessai. 9. Dharmu Bogru Fotto Dessai. 10. Parvati Ganesh Fotto Dessai. 11. Bikaro Rama Dessai. 12. Datta Rama Dessai. 13. Gopi Satu Fotto Dessai. 14. Mangaldas Kalu F. Dessai. 15. Gurunath Jiju Dessai. 16. Anant Jiju Dessai. 17. Gunavanti Govind Dessai. 18. Baban Shankar Dessai. 19. Surya Shankar Dessai. 20. Raghuvir Shankar Dessai. 21. Kushali Mahadeo Dessai. 22. Shankaram Mahadeo Dessai. 23. Ragunath Raghoba Dessai. 24. Pandari Bombi Dessai. 25. Abole Naik. 26. Balkrishna Guno Dessai. 27. Gurudas Guno Dessai. 28. Yadav Narayan Dessai. 29. Tukaram Pandu Dessai. 30. Sadashiv Pandu Dessai. 31. Sanju Kust Fotto Dessai. 32. Raghoba Kust Fotto Dessai. 33. Datta Kust Fotto Dessai. 34. Gopinath Kust Fotto Dessai. 35. Uttam Chandru Fotto Dessai. 36. Keshar Raghu Dessai. 37. Manguesh Bhicaro Dessai. 38. Telu Raghiba Mapari. 39. Kashinath Govind Dessai. 40. Vishram Govind Dessai. 41. Shivram Satu Dessai. 42. Laximan Yesso Dessai. 43. Kushali Shamba Dessai. 44. Babani Govind Dessai. 45. Narayan Khapru Naik. 46. Babuso Govind Fotto Dessai. 47. Rama Govind Dessai. 48. Shrikant Govind Dessai. 49. Krishna Govind Mapari. 50. Rudragi Govind Mapari. 51. Rama Ganesh Mapari. 52. Shrikant Shivram Naik. 53. Kir Govind Dessai. 54. Jaganath Jaya Dessai.		1000.00

1	2	3	4	5	6	7
	Quepem	Xelvona	27	4 part	1. Vicente Joao Figueredo. T: Sitaram Shankar Fotto Dessai.	100.00
			27	7 part	1. Vicente Joao Figueredo. T: Vishwanath Atma Dessai.	275.00
			27	2 part	1. Vicente Joao Figueredo. North: S. No. 26/1, 27/4, 7. South: S. No. 26/1, Road. East: Road, S. No. 27/2. West: Village boundary of Assolda.	200.00
Total						12144.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 28th July, 1984.

Public Health Department

Order

No. 6/3/84-PHD

In partial modification of the Government Order of even number dated 30-5-1984 Dr. Albert Souza, Medical Officer, shall continue in the Asilo Hospital, Mapusa until further orders.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 6th August, 1984.

Order

No. PHD/79(2)/76/Estt-Vol. I

On the recommendation of the Union Public Service Commission Dr. Motiram P. Kedare is hereby appointed to the post of Public Health Dentist and posted at Primary Health Centre, Aldona in the scale of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 and on the terms and conditions contained in the Government Memorandum of even number dated 13-6-1984. Dr. Kedare should report to his place of posting immediately.

Dr. Motiram P. Kedare has been medically examined and found fit by the Medical Board, Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 7th August, 1984.

Order

No. PHD/79(2)/76/ESTT-Vol-I

On the recommendation of the Union Public Service Commission Dr. Shankar P. Dange is hereby appointed to the post of Public Health Dentist and posted at Primary Health Centre, Valpoi against the vacant post in the scale of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 and on the terms and conditions contained in the Government Memorandum of even number dated 13-6-1984.

Dr. Dange should report to his place of posting immediately.

Dr. Shankar P. Dange has been medically examined and found fit by the Medical Board, Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 9th August, 1984.

Industries and Labour Department

Order

No. 21/6/83-ILD

On the recommendation of Departmental Promotion Committee Shri R. S. Mardolkar, Assistant Labour Commissioner is hereby promoted to the post of Deputy Labour Commissioner in the Office of Commissioner, Labour and Employment on temporary basis with immediate effect in the pay scale of Rs. 700-40-900-EB-40-1100-50-1300 created vide Government Order No. 23/38/80-ILD dated 25-8-1981.

This issues with the approval of Union Public Service Commission vide their letter No. F.1/3(1)/84-A.U. II, dated 19-7-1984.

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 4th August, 1984.

Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 4th August, 1984.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND DIU, PANAJI GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: IT/10/84

1. Shri Vishnu Harmalkar — Workman/Party I

V/s.

1. M/s. Shamsunder & Co. Pvt. — Employer/Party II Limited.

Workman/Party I represented by Shri G. Vaz, Union Leader.
Employer/Party II represented by Shri L. R. Ferrao, Labour Advisor.

Panaji, Dated: 28-8-1984

AWARD

In this reference made by the Govt. of Goa, Daman & Diu, to this Tribunal for adjudication of a dispute between the above parties, the schedule attached to the Order of Reference reads as follows:

"Whether the action of the Management of M/s. Shamsunder & Company Private Limited, Bicholim-Goa, in discharging the services of Shri Vishnu S. Harmalkar, Supervisor w.e.f. 2-11-1979 is legal and justified?

If not, to what relief the workman is entitled to?"

2. Both the parties were duly served to appear before this Tribunal to file their statement of claim and written statement. The workman/party I, who was represented by Union Leader, Shri George Vaz, asked for time to file his claim statement, which was granted. On the next date fixed, both the workman and his rep. remained absent. The employer's rep. filed its written statement and the case proceeded ex-parte regarding the workman. On the date fixed for evidence, the employer's rep. examined in open court, Shri Kantilal Govind Narkar, In-charge of the factory, who produced the inquiry proceedings conducted against the workman and various other documents.

3. I have carefully perused the inquiry proceedings in which the workman fully participated and I am satisfied that the discharge order passed by the employer is legal and justified, since the workman did not report for duty at the place of his transfer. This is my answer to the reference. No order as to costs.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal

Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 16th July, 1984.

**IN THE LABOUR COURT GOA, DAMAN & DIU,
PANAJI-GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/4/82

1. Mr. Chandrakant Mukund Rege —Applicant
V/s.

1. Shri Pravinkumar S. Gosalia, —Opponents
Mg. Director

2. Shri Vinod S. Gosalia, Director

3. M/s. S. Kantilal & Co. Pvt. Ltd.

Applicant represented by Shri P. Ghodge, President of The Goa Shops and Industrial Workers' Union and Adv. F. D'Mello.

Opponents represented by Shri Ramesh Desai, Labour Advisor.

Panaji. Dated: 26-5-1984

AWARD

In this application filed by the above applicant against the above Opponent under Section 33C(2) of the I.D.A., 1947, in short the Act, it is prayed that the Opponents be directed to pay him Rs. 19,888-95, of his wages from January, 1981 to January 1982, as per the details shown in the annexure.

2. It is stated in the application that the applicant was employed with the Opponents on 1-11-1967 as Controller of Accounts at the Head Office, at Margao, with the initial

monthly salary of Rs. 800/- which, later, was increased to Rs. 1,725/-. He has approached the Management to get his salary dues, but with no result.

3. The Opponents, in their written statement, raised objections regarding the applicant being a "Workman" within the meaning of the Act and also regarding the impleading of Shri Pravinkumar Gosalia and Shri Vinod S. Gosalia, in their individual capacity, as Opponents in the proceedings, stating that the applicant was in the employment of the Company, who is the employer and the sole responsible for the purpose of law and not the Directors, in their individual capacity.

On the merits, it is stated that the Company, since 1973-74, has been facing difficulties in its business and in the last 4 years, an acute financial crisis. The workers were paid their wages, although with delay. A meeting was called and the workmen employed in the Mines agreed to give production at a certain rate per month, based on which the Opponents agreed to effect payment linked with production to the workmen employed in the Mines. Unless production was made by the workers in the Mines, there would be no effective work to perform in their day to day activities. On account of the failure on the part of the workers to give any production in the month of December, 1980, the employees in the Head Office were considered as on lay-off without wages, which position was explained to the applicant and others. Since the applicant is to be considered as on lay-off and did not perform any work after resuming duties, he is not entitled to any wages, as claimed in the application.

4. Following issues were framed by the Court:

"1. Whether the applicant proves that he is a workman within the meaning of Section 33C(2) of the I.D.A., 1947, briefly called the Act?

2. Whether the applicant proves that he is entitled to claim from the opponent Rs. 19,888-95 as his salary dues from January 1981 to January 1982, as per the details shown in the annexure to the application?

3. Whether the applicant proves that the opponents two and three, as Managing Directors of Opponent No. 1 are also liable to pay the dues claimed by him?

4. Whether the Opponents prove that the applicant is to be considered as in lay off without wages during the above mentioned period, on account of the Section of the workmen on mines not performing any work after resuming duty?

5. Whether the Opponents prove that during the said period the applicant has not performed any duties, and, consequently, is not entitled to any wages?"

5. On the above issues, both the parties' rep. led their evidence. The applicant got himself examined and the Opponent's rep. examined Shri Vinod S. Gosalia, Director of M/s. S. Kantilal and Company Private Limited.

6. Considering first issue No. 1:

The applicant, in his statement, has stated that, although his designation in the establishment was Controller of Accounts, he was assisting the Chartered Accountant; he was signing only the provident fund returns and correspondence regarding the provident fund; he could not sign papers on his own but only after the Director had examined them and asked him to sign. He had no control over the service conditions of the employees working in his department; leave was sanctioned by the Management; allotment of work was done by the Chartered Accountant; he was allotted work either by the Chartered Accountant, by the Director or by the Manager; he was getting a salary of Rs. 1,725/- per month.

In his cross, he has denied the suggestion that he is a qualified Chartered Accountant and admitted that the nature of the duties he used to perform at A. Ferguson & Co. were not the functions a mere clerk can perform but they were the functions of a responsible person who knows the matter of accounts of higher quality. He has denied that, after the Chartered Accountant Bhachwat left, the applicant was responsible in the matter of accounts, being assisted by Rohidas Naik and others. There was no suggestion in cross examination that whatever he has stated in examination in chief was not correct.

7. Section 2(s) of the Act defines "Workman" as meaning any person (including an apprentice) employed in an industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms

of employment be express or implied (the remaining portion is not relevant for our purpose) but does not include any person:

- i)
- ii)
- iii) who is employed mainly in a managerial or administrative capacity; or
- iv) who being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

8. From the statement of the applicant it is shown that he was not employed in a managerial, supervisory or administrative capacity and there was no suggestion to the contrary made to him in cross examination by the employer. Further, the nature of the duties performed by him was also not of managerial, supervisory or administrative capacity.

9. I, therefore, hold that the applicant is a "Workman" within the meaning of Section 2(s) of the Act, since it is not proved that he was employed mainly in Managerial or Administrative capacity or even in a supervisory capacity.

10. I shall now take up issue No. 3 regarding liability of the Managing Directors of the Company, in their individual capacity, to pay the dues of the applicant.

It is an admitted fact that the employer of the applicant was the company, M/s. S. Kantilal & Co. Pvt. Ltd., and not its Directors in their individual capacity and, therefore, the said Directors in their individual capacity cannot be held liable to pay to the applicant whatever amounts are due to him in connection with the employment as, in the eyes of law, the Company is a separate entity, distinct from its members. Consequently, the Company alone can be held responsible for whatever dues are claimed by the applicant in connection with his employment in the Company. I, therefore, direct that the names of Shri Pravinkumar S. Gosalia and Shri Vinod S. Gosalia be deleted from the proceedings as Opponents.

11. Coming now to issue No. 2:

The applicant, in his statement, has confirmed the contents of his application and added that, after the filing of the application, he has been paid of his salary for January and February 1981.

In his cross, he has admitted that the purchase of ore by the Company from independent Mine Owners went on gradually decreasing and, virtually, came to a standstill in 1980. He has further admitted that, except for the last 6 to 7 years, the Company used to pay their wages in time. He has denied the knowledge of the meeting alleged to be held by the Company and also that the payment of their wages was linked with the production in the Mines.

12. Shri Vinod Gosalia has stated, in short, that around 1971-72, the export of ore by the Company stopped, due to financial difficulties and labour problems. Before the stoppage, the Company had about 80 employees in the Mines and Head Office which are now reduced to 2 or 3. Most of them resigned and left the Company S. Kantilal, which have

not produced ore in the Mines for more than 10 years. The Mines of this Company are kept working by raising contractors. There was a dispute between the Management and the workers employed in the Mines from 1980. This dispute was for not getting their co-operation in production activity. Since the workers were not working, the Company decided to lay them off. The Head Office staff was also told by the Management that, since there was no production in Mines, there was no money to pay their wages and so they too were laid off.

In his cross, he had admitted that the workers employed were directly employed by the Company and not by the Directors. That S. Kantilal and Shantilal Khushaldas are sister concerns, both functioning in the same premises and the employees of one company were transferable to another with continuity of service. He did not issue any notice of lay off to the workers at the Head Office. The applicant and others were paid their wages according to their pay scale, whether or not they did any work.

13. This is all the evidence led by the parties.

The claim of Rs. 19,888-95 has not been denied by the Opponent, whose only contention is that, due to their financial difficulties, they could not effect payment to the applicant. The applicant has stated in his statement, that, after the filing of the application, he has received salary for January and February 1981, at the rate of Rs. 1,517-25 and 1,489-95 resply. totalling Rs. 3,007-20. Hence, deducting Rs. 3,007-20 from 19,888-95, the applicant is entitled to receive from the Opponents Rs. 16,881-75 of his salary dues till January, 1982.

14. Considering now issue No. 4 regarding lay-off.

Shri Vinod S. Gosalia has stated in his cross examination that he did not issue any notice of lay off to the workers at the Head Office. Even assuming, for the sake of arguments, that under the Standing Orders of the Company, the employer was entitled to lay-off the workers, in the absence of any such notice, there could not be any lay-off.

The contention of the employer that, as the employees in the Mines failed to give any production and so the employees at the Head Office had no effective work to perform, they were considered as on lay off without wages cannot be accepted. It is to be noted that the applicant's work was not linked with production and even assuming that there was no work for the employees at the Head Office for non production in the Mines, which fact, otherwise, is denied by the applicant, the employer, if it did not want to pay the salary of the employees in future could have retrenched them, after complying with the legal formalities, which he did not do.

15. In the premises above, I pass the following Order:

ORDER

The names of the Directors, Shri Pravinkumar S. Gosalia, and Shri Vinod S. Gosalia as Opponents in this application should be deleted. The employer company is directed to pay to the applicant the total amount of Rs. 16,881-75 as his wages till January 1982, with 12 p.c. interest till the date of effective payment. Costs of Rs. 100/- to be paid by the employer to the applicant.

Dr. Renato de Noronha
Presiding Officer
Labour Court